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No. 80-230

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

OHIO SUBURBAN WATER COMPANY

Petitioner,

vs.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Respondent.

BRIEF OF RESPONDENT PUBLIC UTILITIES COMMISSION OF OHIO IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

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STATEMENT OF THE CASE

The Respondent, Public Utilities Commission of Ohio ("PUCO"), will confine its statement of the case to relevant data not contained within the summary of the proceedings below contained in the Petition for Writ of Certiorari filed with this Court by the Petitioner, Ohio Suburban Water Company ("Ohio Suburban"), and data presented in the Petitioner's summary of the proceedings, with which Respondent disagrees.

On May 12, 1978 Ohio Suburban filed an application seeking a permanent rate increase for its water and sewer service. This application was its first such request for an increase in rates subsequent to the passage of Am. Sub. Senate Bill 94, effective September 1, 1976. The major issue presented in the rate case was how to value property purchased by Ohio Suburban from Huber Utilities Co. ("Huber U"), which had been contributed to Huber U by Huber Homes, Inc. and other parties now unknown. Following the mandate of Ohio Revised Code 4909.05 (E), the PUCO attributed to said property a zero original cost, as it had been first devoted to public use by Huber U at no cost to Huber U. (Prior to the passage of Ohio Revised Code 4909.05 (E), a utility company's property was valued at reproduction cost new less depreciation.) The Ohio Supreme Court recognized that the constitutional issue presented by Ohio Suburban was not one of first impression and it affirmed its recent holding in the case of *Ohio Utilities Co. v Pub. Util. Comm.* (1979) 58 Ohio St. 2d 153, finding Ohio Revised Code 4909.05 a constitutional enactment of the state legislature.

QUESTION PRESENTED

Does the passage of a statute requiring valuation of property for rate making purposes equal to the original cost of said property to the first person dedicating said property to public use, constitute a confiscation of property withqut due process of law of a subsequent purchasing utility company when such purchasing utility company's rate base has been reduced as a result of the passage thereof?

ARGUMENT

Ohio Suburban's writ claiming that the Ohio Supreme Court completely ignored the point of constitutional law in the opinion is totally unfounded. The Supreme Court of Ohio recognized that Ohio Suburban's allegation was similar to that of the Ohio Utilities Company in a previous case.

> This Court recently addressed a similar argument in *Ohio Utilities Co. v. Pub. Util. Comm.* (1979), 58 Ohio St. 2d 153, 389 N.E. 2d 483. In that case, the utility company received as CIAC (contribution in aid of construction) substantial quantities of cash and property from development companies owned by the individuals who also held the utility company's stock. These contributions were apparently made prior to the enactment of Am. Sub. S.B. No. 94, and prior to the sale of the utility's stock to another company in 1973. Thereafter, when the General Assembly replaced the reproduction cost new less depreciation

method of determining the valuation of rate base property with the original cost method valuation set forth by Am. Sub. S.B. No. 94, the utility challenged the commission's subsequent exclusion of it's CIAC from its rate base under the provisions of R.C. 4909.05 (I) and (J).

In deciding that the implementation of the General Assembly's original cost valuation procedure did not contravene constitutional guarantees of due process, this court recognized that regulation in some instances may diminish the value of the property controlled, but concluded that the presence of this aspect of regulation does not amount to an unconstitutional taking of that property. As indicated in that case, the rationale for the exclusion of Contribution in Aid of Construction from the value of property upon which a rate of return is guaranteed by the Constitution is the well - settled principle in utility law that it is "the investment of the shareholder which comprises the rate base," and "not contributions of others." *Ohio Utilities Co. v. Pub. Util. Comm., supra,* at page 161, citing *Missouri, ex rel. S.W. Bell Tel. Co., v. Public Service Comm.* (1923), 262 U. S. 276, 290 (Justice Brandeis dissenting); *Cincinnati v. Pub. Util. Comm.* (1954), 161 Ohio St. 2d 395, 119 N. E. 2d 619. It is not disputed that the instant property was donated to Huber Utilities prior to

> appellant's purchase of the assets of the company and that this property was received as Contributions in Aid of Construction. (Petition, App. p. 11, 12)

The specific point of constitutional law upon which Ohio Suburban's claim rested had been litigated before and settled by the Ohio Supreme Court. There is no reason why the Ohio Supreme Court's opinion in Ohio Suburban required a detailed restatement of the constitutional principle followed in *Ohio Utilities supra.* (See *Ohio Utilities supra* p. 159 - 162). Affirmance of that principle in its decision proves that the allegation of the unconstitutionality of Ohio Revised Code 4909.05 had been deliberated and resolved by the Ohio Supreme Court.

The obvious inquiry extending from the above discussion is why did the Ohio Supreme Court fail to address distinguishing factors between Ohio Utilities and Ohio Suburban? Simply stated, there were no distinguishing factors upon which a constitutional issue could be based. In fact, Ohio Suburban's brief before the Supreme Court of Ohio alleging unconstitutionality of the aforementioned statute is almost a word for word replication of Ohio Utilities Company's argument. (See Respondent A. P. 1 - 8).

The Supreme Court of Ohio did not ignore the constitutional principle at issue. Rather, Ohio Suburban refused to admit the stated principle applied to its own set of facts.

Ohio Suburban draws attention to the following language in the PUCO Opinion and Order.

> It does appear to us that the application of Section 4909.05 (E), Revised Code to an arms' length sale of assets between utilities produces an uncon-

> stitutional and an inequitable result. However, this Commission as an administrative agency, is without jurisdiction to determine the constitutionality of a statute. (Petition A p. 25.)

As explained in its brief before the Ohio Supreme Court, the Ohio Suburban Opinion and Order preceded the Court's resolution of the *Ohio Utilities* case. The constitutional principle enunciated in *Ohio Utilities* settled this issue, and the PUCO, abiding by the Court's decision, sought to uphold that principle in the *Ohio Suburban* case.

Ohio Revised Code 4909.05 simply does not cause an unconstitutional taking of property. Original cost rate base laws and "contributed property" provisions are quite common in the United States. Nowhere have these laws been held unconstitutional, especially in light of *FPC v. Hope Natural gas Co.* (1944) 320 U.S. 591. Therein, this Court stated "By such a procedure [use of original cost] the utility is made whole and the integrity of its investment maintained. No more is required." *FPC v. Hope supra,* at 606 (footnotes omitted). Those states in which donated property has been held to have been properly excluded provide an almost inexhaustible source of citations. See for example *Dupage Realty Co. v. Illinois Commerce Comm.* (1971 Ill.), 267 N.E. 2d. 662; *Re Butte Water Co.* (1970 Mont. PSC), 82, PUR 3d. 356; *City of Hagerstown v. Maryland Pub. Service Comm.* (1958 Md. App.), 141 A. 2d. 699; *Re Western Kentucky Gas Co.* (1971 Ky. PSC), 94 PUR 3d. 145, 146; *Re West Kearnsburg Water Co.* (1970 N.J. PSC), 83 PUR 3d. 423; *Southern Gulf Utilities v. Metropolitan Dade County Water & Sewer Board* (1965 Fla. App.), 180 So. 2d. 481; *Mississippi Pub. Ser. Comm. v. Hinds County Water Co.* (1967 Miss.), 195 So. 2d. 71; *Re Michigan Gas Utilities* (1962

Mich. PSC), 47 PUR 3d. 15, 22; *Re Indiana Gas & Water* (1960 Ind. PSC), 35 PUR 3d. 43, 47.

This Court explained that, "The Constitution does not bind rate - making bodies to the service of any single formula or combination of formulas." *Fed. Power Comm. v. Natural Gas Pipeline Co.* (1942) 315 U.S. 575, 586. The formula now being used by the PUCO is "original cost of the first person to dedicate the property to public use." Previously, by the grace of the state legislature, utility companies' property valuation was equal to the reproduction cost new of its existing plant less depreciation. It simply made no difference how the utility company acquired its plant. Now contributed property cannot earn a return.

Ohio Suburban continues to insist that its purchase price must be used for valuation of its rate base despite the inclusion of contributed property within the property purchased. Why did Ohio Suburban pay $2,800,000 for Huber U's property? The property, including contributions in aid of construction, was worth $3,867,118. Did the purchaser - investor, Ohio Suburban, discount the property's value because Ohio was one of the last remaining stalwarts of RCNLD rate making and a change to original cost was imminent? Regardless of motives surrounding the purchase price, the $2,800,000 investment represents the property's ability to earn revenues *at the time of purchase*, not a constitutionally permitted **minimum** rate base. According to Justice Black's concurring opinion in *FPC v. Natural Gas Pipeline, supra*, "rate making is one species of price fixing. Price fixing like other forms of social legislation may well diminish the value of the property which is regulated but that is no obstacle to its validity." *FPC* at 603.

Ohio's diminution of value of Ohio Suburban's investment by its passage of Ohio Revised Code 4909.05 has not reduced Ohio Suburban's rate base below constitutional limitations. There was no original cost to Huber U in

dedicating property contributed to it, to public use. A subsequent purchase by a utility company does not change the fact that the very same contributed property, now owned by a new entity (also a public utility), had a zero original cost to the first person to dedicate said property to public use. The Federal Energy Regulatory Commission's ("FERC") recognition of the necessity of original cost rate making was affirmed by the Ninth Circuit Court of Appeals in its opinion in *Montana Power Co. v. Fed. Energy Reg. Comm.* (9 Circ. 1979), 599 F. 2d 295.

> Because the market value of assets seldom changes precisely in accordance with depreciation, depreciated original cost often is not an accurate proxy of current fair market value. Nonetheless original cost accounting is employed to avoid the difficulties of more subjective methods of property valuation. The original cost method has been applied to property acquisitions by utilities to prevent utilities from artifically inflating their rate bases by acquiring properties at unrealistically high prices. As the FPC has noted, if the original cost concept was not applied to such acquisitions, "all that need be done to raise rates and obtain greater income would be to have one company buy utility properties from another at a higher price than original cost and in this very simple way increase the size of the rate base and increase the cost of service to consumers." *(United Gas Pipe Line Co.* (1961), 25 FPC 26, 64) *Montana Power supra,* at 300.

Even Judge Goodwin in his dissent does not question the need for original cost valuation when an intra - industry sale is at issue. Judge Goodwin did not believe the same reasons for applying original cost rate making to sales within the utility industry existed when sales occurred inter - industry.

> Nowhere does the FERC show us that Congress felt that inter - industry acquisitions presented the likelihood of abuse that intra - industry transfers may once have presented.
> *Montana Power, supra,* Goodwin dissenting at 302.

The question before this Court today does not involve the application of original cost rate making to inter - industry sales. Huber U was a water company subject to the jurisdiction of the PUCO just as Ohio Suburban is. If the employment of original cost rate making to inter - industry sales is weakened by Judge Goodwin's dissent, its application to intra - industry sales is strengthened by the dissent's compelling need to rely on distinguishing the two types of situations in order to denounce the former. Moreover, the majority accepts original cost rate making under both circumstances!

The FERC and numerous state regulatory agencies utilize original cost rate making standards. If Ohio Revised Code 4909.05 is unconstitutional because it causes confiscation of property, those jurisdictions which once had non-original cost statutes now operating under original cost rate making principles would be confiscating utility companies' property. The sensible argument recognizes that rate making does not exist in a vacuum nor is it a stagnant operation. It can cause a reduction (or conceivably an increase) in value of a utility company's rate base; but that change is not a constitutional

infirmity. Since this basic standard has been enunciated by the Supreme Court of the United States before, there are no reasons to grant Ohio Suburban's Petition for Writ of Certiorari in this case.

CONCLUSION

For all the reasons indicated above, Ohio Suburban's Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that three copies of the foregoing Brief in Opposition to Petition For a Writ of Certiorari to The Supreme Court of The State of Ohio were sent by United States first class mail, postage prepaid, to counsel representing the parties of record in this proceeding this _____ day of August, 1980.

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APPENDIX

Portion of Brief of Appellant Ohio Suburban Water Co., *Ohio Suburban Water Co. v. Pub. Util. Comm.* (1980), 62 Ohio St. 2d 17.

ARGUMENT

PROPOSITION OF LAW NO. 1

BY EXCLUDING $2,779,416 OF PROPERTY FROM OHIO SUBURBAN'S RATE BASE, WHICH PROPERTY WAS INCLUDED IN $3,867,118 WORTH OF PROPERTY FOR WHICH OHIO SUBURBAN PAID $2,800,000 PRIOR TO SEPTEMBER 1, 1976, AND UPON WHICH PROPERTY OHIO SUBURBAN COULD LAWFULLY EARN A RETURN PRIOR TO SUCH DATE, AM. SUB. S.B. 94 EFFECTIVELY CONFISCATED SUCH PROPERTY IN VIOLATION OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND IN VIOLATION OF SECTIONS 1, 16 AND 19 OF ARTICLE I OF THE OHIO CONSTITUTION.

In discussing the constitutional issue, the Commission stated in its Opinion and Order:

> It does appear to us that the application of Section 4909.05 (E), Revised Code to an arm's length sale of assets between utilities *produces an unconstitutional and an inequitable result.* However, this Commission, as an administrative agency, is without jurisdiction to determine the consti-

> tutionality of a statute. (emphasis added)
>
> (Appendix 31)

Prior to September 1, 1976, the law of Ohio was:

> [I]f property is "owned" by the utility and "used and useful" for the service of the public, it must be included in the valuation or rate base without regard to the manner in which the property was acquired. *In re Marion Water Co.* (1973, Pub. Util. Comm. of Ohio), 98 P.U.R. 3d 280 at 286.

Ohio Suburban in 1965 purchased property for $2,800,000 upon which it was entitled under Ohio law to earn a return.

Assuming, *arguendo*, that the Commission is correct in its interpretation (and application to Ohio Suburban) of Revised Code §4909.05 (E), then such legislation is unconstitutional.

Prior to 1976, there was no question that Ohio Suburban was entitled to earn a return on all property owned by it "used and useful" regardless of the source. If this right was in fact destroyed by Am. Sub. S.B. 94, such legislation is null and void.

It is a recognized principle of constitutional law that the legislature may not take property without compensation to its owner; and where a statute has that effect, that statute is unconstitutional and violates not only Sections 1, 16, and 19 of Article I of the Constitution of Ohio, but also the 14th Amendment to the Constitution of the United States of America. *Grieb v. Department of Liquor Control* (1950), 153 Ohio St. 77; *State ex rel. City of Cleveland v. Court of Appeals* (1922), 104 Ohio St. 96 See, generally, 10 O. Jur. 2d, *Constitutional*

Law, § 496.

Both the United States Supreme Court and the Supreme Court of Ohio have held that there need not be a physical confiscation of property to constitute an unconstitutional taking. Where the government's activities in relation to the property constitute a "direct and immediate interference with enjoyment and use" of the property, the government has "taken" the property to the extent that its value has been reduced.*United States v. Causby* (1946), 328 U.S. 256; *State ex rel. Royal v. City of Columbus* (1965), 3 Ohio St. 2d 154.

The *Causby* case is of particular application because in that case the United States Supreme Court recognized that govermental interference with the economic earning capacity of property amounts to an unconstitutional taking.

Ohio Suburban respectfully submits that the Staff's interpretation of Am. Sub. S.B. 94 and the resulting exclusion of property from Ohio Suburban's rate base constitutes just such an unconstitutional confiscation of property. Under prior Ohio law and this Commission's prior rate order for Ohio Suburban, Ohio Suburban has been earning a return on property, whose earning capacity the Staff now seeks to deny under color of R.C. § 4909.05 (E) and § 4909.15. The Staff's interpretation of Am. Sub. S.B. 94 thus has the effect of stripping such property from Ohio Suburban's rate base, and if the Staff's interpretation of such legislation is correct, such legislation is unconstitutional and a nullity.

Portion of Brief of Appellant Ohio Utilities Co., *Ohio Utilities Co. v. Pub. Util. Comm.* (1979), 58 Ohio St. 2d 153

Proposition of Law No. 5:

> BY EXCLUDING ALLEGED CONTRIBUTIONS IN AID OF CONSTRUCTION FROM APPELLANT'S RATE BASE, AFTER SUCH PROPERTY HAD BEEN INCLUDED IN APPELLANT'S BASE UNDER OHIO'S FORMER UTILITY RATE LAW, AMENDED SUBSTITUTE SENATE BILL 94 EFFECTIVELY CONFISCATED SUCH PROPERTY IN VIOLATION OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND IN VIOLATION OF SECTIONS 1, 16 AND 19 OF ARTICLE I OF THE OHIO CONSTITUTION.

Included in the property of Appellant, actually used and useful for the rendition of its utility services to the public, is $4, 986, 875 of alleged contributions in aid of construction. Over 80% of these amounts represent monies and property contributed to the utility indirectly from its owners, the Davis group. (II App't. Record 305, 205 - 206, 257 - 258) The PUCO applied Ohio's new rate law to exclude these contributions from Appellant's rate base. (I App't. Record 40 at 54) The result was to reduce Appellant's revenues by over half a million dollars per year.

These capital contributions from the Davis group had been made to Appellant from year to year to offset operating losses and to meet construction requirements.

These capital contributions were usually supplied by development companies owned by the Davis group. It didn't make any difference which of the Davis group development companies supplied the capital contributions, as the ultimate source was always the Davis group, which owned Appellant. (II App't. Record 205 - 206, 248 - 250, 257 - 258, 264, 268 - 270, 282 - 283, 305)

Appellant issued no new securities to evidence this continual infusion of funds, as the ownership interests in Appellant did not change as a result of this financing. (II App't. Record 206) From the perspective of the Davis group, these contributions of capital from the development companies were like transfers of investment capital by shareholders from one pocket to another; and the respective interests of the members of the Davis group in Appellant were not affected.

Under Ohio's former rate law, contributions from customers, including contributions of property to a utility, were included in a utility's rate base; and the utility was entitled to earn a rate of return thereon. *In re Marion Water Co.* (1973, Pub. Util. Comm. of Ohio), 98 P.U.R. 3d 280. Thus, the rates of Appellant authorized by the Public Utilities Commission's January 18, 1977, Order, in Case No. 75 - 529 - WS - AIR, included a return on all its contributions.

The PUCO has concluded that treatment was dramatically changed by Amended Substitute Senate Bill 94, which excluded from a utility's rate base

> "Any sums of money or property that the company may have received as total or partial defrayal of the cost of its property..." (R.C. 4909.05 (A) (1)

By excluding Appellant's contributed property from its rate base, the Commission's interpretation of Amended Substitute Senate Bill 94 deprived Appellant of 100%

of the earning capacity of such property.

Amended Substitute Senate Bill 94's treatment of such contributions differed dramatically from its treatment of other utility property. With respect to other utility property, the Bill merely modified the method for calculating its value -- from reconstruction cost new less depreciation to book value less depreciation. With respect to contributions, however, the Commission has interpreted the Bill as completely excluding such property from a utility's rate base -- thus denying the utility any return whatsoever on the property.

Appellant respectfully submits that the exclusion of contributions from its rate base by the Commission's interpretation of Amended Substitute Senate Bill 94, after such contributions had been included in Appellant's rate base under Ohio's former rate law, constitutes an unconstitutional confiscation of Appellant's property. In this case, the confiscation amounted to over 50% of Appellant's property actually used and useful in the rendition of its utility services to the public. (May 18, 1978, Order, p. 15) The result was a substantial reduction of Appellant's annual revenues.

It is a recognized principle of constitutional law that the legislature may not take property without compensation to its owner; and where a statute has that effect, that statute is unconstitutional and violates not only Sections 1, 16, and 19 of Article I of the Constitution of Ohio, but also the 14th Amendment to the Constitution of the United States of America. *Grieb v. Department of Liquor Control* (1950), 153 Ohio St. 77; *State ex rel. City of Cleveland v. Court of Appeals* (1922), 104 Ohio St. 96. See, generally, 10 O. Jur. 2d, *Constitutional Law*, § 496.

Both the United States Supreme Court and the Supreme Court of Ohio have held that there need not be a physical confiscation of property to constitute an unconstitutional taking. Where the government's activities in relation to the property constitute a "direct and im-

mediate interference with the enjoyment and use" of the property, the government has "taken" the property to the extent that its value has been reduced. *United States v. Causby* (9146), 328 U.S. 256; *State ex rel. Royal v. City of Columbus* (1965), 3 Ohio St. 2d 154.

The *Causby* case is of particular application because in that case the United States Supreme Court recognized that governmental interference with the economic earning capacity of property amounts to an unconstitutional taking.

Appellant respectfully submits that the PUCO's interpretation of Amended Substitute Senate Bill 94 to exclude contributions from Appellant's rate base constitutes just such an unconstitutional confiscation of property. Under prior Ohio law and the PUCO's prior rate order for Appellant, Appellant had been earning a return on property, whose earning capacity the Commission now seeks to deny under R.C. 4909.05 (I) and 4909.15, The Commission's interpretation of Amended Substitute Senate Bill 94 thus has the effect of stripping such property of its economic earning capacity through the exclusion of such property from Appellant's rate base.

Appellant respectfully submits that those portions of R.C. 4909.05 (I) and 4909.15 which the Commission has interpreted erroneously to confiscate Appellant's alleged contributions are unconstitutional. The Commission's reliance thereupon is a nullity and must be reversed.

Proposition of Law No. 6:

> CONTRIBUTIONS OF MONEY OR PROPERTY RECEIVED BY A PUBLIC UTILITY FROM ITS OWNERS ARE NOT PROPERLY EXCLUDABLE FROM A UTILITY'S RATE

BASE PURSUANT TO THE PROVISIONS OF R.C. 4909.05 (I).

As discussed under proposition of law No. 5 above, the Public Utilities Commission relied upon R.C. 4909.05 (I) to exclude from Appellant's rate base over 50% of Appellant's property actually used and useful in the rendition of its utility services to the public. The effect of this exclusion was to deny Appellant any rate of return on such contributions and thus to reduce Appellant's annual revenues by approximately half a million dollars per year. See generally, R.C. 4909.15 (A) (1).

OHIO REVISED CODE SECTION 4909.05

4909.05 Report of valuation of property

As used in section:

(A) A "lease purchase agreement" is an agreement pursuant to which a public utility leasing property is required to make rental payments for the term of the agreement and either the utility is granted the right to purchase the property upon the completion of the term of the agreement and upon the payment of an additional fixed sum of money or title to the property vests in the utility upon the making of the final payment.

(B) A "leaseback" is the sale or transfer of property by a public utility to another person contemporaneously followed by the leasing of the property to the public utility on a long term basis.

The public utilities commission shall prescribe the form and details of the valuation report of the property of each public utility or railroad in the state. Such report shall include all the kinds and classes of property, with the value of each, owned or held by each public utility or railroad used and useful for the service and convenience of the public. Such report shall contain the following facts in detail:

(C) The original cost of each parcel of land owned in fee and in use at the date certain determined by the commission; and also a statement of the conditions of acquisition, whether by direct purchase, by donation, by exercise of the power of eminent domain, or otherwise;

(D) The actual acquisition cost, not including periodic rental fees, of rights - of - way, trailways. or other land rights held by virture [*sic*] of easements, leases or other forms of grants of right as to usage;

(E) The original cost of all other kinds and classes of property used and useful in the rendition of service to the public. Such original costs of property, other than

land owned in fee, shall be the cost, as determined to be reasonable by the commission, to the person that first dedicated the property to the public use and shall be set forth in property accounts and subaccounts as prescribed by the commission.

(F) The cost of property constituting all or part of a project leased to or used by the utility under Chapter 165., 3706., 6121 or Code 6123. of the Revised Code and not included under division (E) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(G) In the discretion of the commission, the cost to a utility, in an amount determined to be reasonable by the commission of property constituting all or part of a project leased to the utility under a lease purchase agreement or a leaseback and not included under division (E) of this section exclusive of any interest directly or indirectly paid by the utility with respect thereto whether or not capitalized;

(H) The proper and adequate reserve for depreciation, as determined to be reasonable by the commission;

(I) Any sums of money or property that the company may have received as total or partial defrayal of the cost of its property;

(J) The valuation of the property of the company shall be the sum of the amounts contained in the report pursuant to divisions (C), (D), (E), (F), and (G) of this section, less the sum of the amounts contained in the report pursuant to divisions (H) and (I) of this section.

The report shall show separately the property used and useful to such public utility or railroad in the furnishing of the service to the public and the property held by such public utility or railroad for other purposes, and such other items as the commission deems proper. The commission may require an additional report showing the extent to which the property is used and useful. Such reports shall be filed in the office of the commis-

sion for the information of the governor and the general assembly.

HISTORY: 1976 S 94, eff. 9 - 1 - 76
GC 499-9